

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 287 of 1999

Between:

A. Nageshwar rao, S/o. A. Chinnaiah, Age 44 years,
Singareni Collieries Company Limited, Electrical Chargehand, Grade-B,
CSP-I, GDK, Ramagundam Division-I.

..... PETITIONER

AND

1. The General Manager, Ramagundam Area-I,
The Singareni Collieries Company Limited,
Ramagundam, Karimnagar District.

2. The Director (Personnel, Admn. & Welfare),
The Singareni Collieries Company Limited,
Kothagudem Collieries – 507 101.

3. The Chairman & Managing Director,
The Singareni Collieries Company Limited,
Meher Manzil, Lakdi-ka-pool,
P.O. Khairatabad, Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Certiorari by setting aside the impugned condition vide Ref.P(PM)4/3478/3177, dated 09-09-1993 to that effect the petitioner's regular appointment in Technical Grade B as Electrical Chargehand with a probationary period of 3 months and promotion to the higher category will depend upon producing certificate of competency of Electrical Supervisor with Mines Installation and the impugned letter Ref.P.RG.I/6/6693, dated 23-12-1998 is illegal, arbitrary and violative of statutory provisions of Agreement dated 03-03-1989 and also violative of Articles 14 and 16 of the Constitution of India.

Counsel for the Petitioner: MR.K.RAM REDDY

Counsel for the Respondents: MR.K.SRINIVASA MURTHY

The Court made the following

ORDER:

The writ petition is filed seeking a Certiorari to quash the impugned condition vide Ref.P.(PM)4/3478/3177, dated

09-09-1993 to the effect that the petitioner's regular appointment in Technical Grade B as Electrical Chargehand with a probationary period of three months and promotion to the higher category will depend upon producing the certificate of competency of Electrical Supervisor with Mines Installation and further letter Ref.P.RG.I/6/6693, dated 23-12-1998 as illegal, arbitrary and violative of the agreement dated 03-03-1989.

It is the case of the petitioner that he passed S.S.C. in the year 1970 and obtained a certificate in I.T.I. (Electrical trade) in the year 1974. After due process of selection, he was appointed as an Electrician in the year 1978. Subsequently, he was promoted to the next post of category V in the year 1982. Further, he was also promoted to the next post of Category VI in the year 1991. The Category VI is also designated as Electrical Chargehand (Electrical Supervisory Certificate Holder) in Technical Grade B and pay scale allowed is one and the same.

The petitioner took charge of the said Category VI post on 09-09-1983 and is continuing as such till date. While so, an agreement was entered into under Section 12 (3) of the Industrial Disputes Act, between the Management and the Representatives of the Union on 03-03-1989. As per the settlement, to fill the posts of Electrical Chargehands, all those who are in Category VI post with Electrical

Supervisory Certificate would be considered for promotion in the first instance. Later on, those who are having eight years service in category V with electrical supervisory certificate would be considered.

In view of the settlement under Section 12 (3) of the Industrial Disputes Act, since the petitioner is holding the post of Category VI, he is automatically entitled for being designated as Electrical Chargehand (Electrical Supervisory Certificate Holder). Therefore, it is arbitrary on the part of the respondent to add a condition for his further promotion in the office order dated 09-09-1993.

A detailed counter affidavit has been filed on behalf of the respondents. It is *inter alia* asserted that the petitioner earlier raised a dispute before the Assistant Labour Commissioner (Central) demanding to confirm him as Electrical Chargehand without insisting him to acquire Electrical Supervisory Certificate in Mines Installation and the said dispute was closed without any commitment from the Management side. Some workmen also filed W.P.No.6162 of 1996 before this Court complaining that they should be considered for the post of Electrical Chargehand as they are in possession of Electrical Supervisory Certificate in utilization and the same is still pending before this Court. It was strongly pleaded that an electrician possessing electrical supervisory certificate in Mines Installation alone was eligible for promotion as per the provisions of Indian Electricity Rules and Coal Mines Regulations, 1957. Unless and until the petitioner gets Electrical Supervisory Certificate in Mines Installation and further opts to work underground, he will not be a full-pledged person to the further promotion. Therefore, such a condition was put in the impugned proceedings.

Heard both sides.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also gone through the impugned proceedings and other material available on record.

The only controversy to be resolved in this writ petition is whether the respondents were right in putting the condition in the order dated 09-09-1993, which reads as under:

“His regular appointment in Tech.Gr.B as Electrical Chargehand with a probationary period of 3 months and promotion to the higher category will depend upon producing

certificate of competency of Electrical Supervisor with Mines Installation.”

Admittedly, the petitioner is working with the Singareni Collieries Company Limited, whose main job is to extract the mines. Apart from that, as per the provisions of Indian Electricity Rules and Coal Mines Regulations, 1957, an electrician should possess Electrical Supervisory Certificate in Mines Installation, then only he is eligible for promotion as Electrical Chargehand. The purported settlement entered into between the Management and the Representatives of the Union on 03-03-1989 did not contemplate any exemption being given to Category VI person for the purpose of being promoted to the post of Electrical Chargehand without possessing the Electrical Supervisory Certificate in Mines Installation. In view of the same, the grievance of the petitioner is only an imaginary. Therefore, the order passed by the first respondent dated 09-09-1993 cannot be said to be either arbitrary or illegal. Hence, the writ petition is devoid of merit and does not call for interference of this Court under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No order as to costs.

C.V. RAMULU, J

Date: 24th June, 2005

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ASSISTANT REGISTRAR

To

1. The General Manager, Ramagundam Area-I,

The Singareni Collieries Company Limited,
Ramagundam, Karimnagar District.

2. The Director (Personnel, Admn. & Welfare),
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